



रजिस्टर्ड नं० एस० एम० 14.



# राजपत्र, हिमाचल प्रदेश

## (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 11 जून, 1977/21 ज्येष्ठ, 1899

### GOVERNMENT OF HIMACHAL PRADESH

#### LABOUR DEPARTMENT

#### NOTIFICATION

*Simla-171002, the 6th April, 1977*

**No. 7-109/76-LEP-Shram.**—The following draft rules which the Governor of Himachal Pradesh proposes to make in exercise of the powers conferred by sub-section (2) of section 26 of the Payment of Wages Act, 1936 (Central Act No. 4 of 1936) are published as required under sub-section (5) of section 26 of the said Act for the information of persons likely to be affected thereby and notice is hereby given that these draft rules will be taken into consideration after the expiry of 90 days from the date of publication of this notification in the Himachal Pradesh Rajpatra.

Any person who has any objection or suggestion to make, may send the same to the Labour Commissioner, Himachal Pradesh, Simla-2 within the above-mentioned period and the objections and suggestions so received shall be duly taken into consideration by the competent authority before adopting the Rules finally.

### DRAFT RULES

**Title** 1. These rules may be called the Himachal Pradesh Payment of Wages Rules, 1977.

**Definitions** 2. In these rules, unless there is anything repugnant in the subject or context:—

- (a) "the Act" means the Payment of Wages Act, 1936 (IV of 1936);
- (b) "the authority" means the authority appointed under sub-section (1) of section 15 of the Act;
- (c) "the Chief Inspector of Factories" means the Chief Inspector of Factories appointed under sub-section (2) of section 8 of the Factories Act, 1948 (Central Act No. LXIII of 1948);
- (d) "the court" means the court mentioned in sub-section (1) of section 17 of the Act;
- (e) "deduction for breach of contract" means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9;
- (f) "deduction for damage or loss" means a deduction made in accordance with the provisions of clause (c) of sub-section (2) of section 7;
- (g) "form" means a form appended to these rules;
- (h) "Inspector" means the Inspector authorized by or under section 14 of the Act;
- (i) "The Labour Commissioner" means Labour Commissioner, Himachal Pradesh;
- (j) "person employed" excludes all persons to the payment of whose wages the Act does not apply;
- (k) "section" means a section of the Act;
- (l) "Pay-master" means an employer or other person responsible under section 3 of the Act for the payment of the wages;
- (m) words and expressions not defined in these rules but are defined in the Act shall be deemed to have been assigned the same meanings as have been assigned to them in the Act.

**Section 26**  
**3(a) Register of fines**

3. (1) In any factory/industrial establishment in respect of which the employer has obtained approval under sub-section (1) of section 8 to a list of acts and omissions in respect of which fines may be imposed, the pay-master shall maintain a Register of fines in Form I.

(2) At the beginning of the Register of Fines there shall be entered serially numbered the approved purpose or purposes on which the fines realized are to be expended.

(3) When any disbursements are made from the fines realized a deduct entry of the amount so expended shall be made in the Register of fines, and a voucher or receipt in respect of the amount shall be affixed to the Register.

If more than one purpose has been approved the entry of the disbursement shall also indicate the purpose for which it is made.

4. In every factory/industrial establishment in which deductions for damage or loss are made the pay-master shall maintain the Register required by sub-section (2) of section 10 in Form II.

Register of deductions for damage or loss.

5. A register of wages shall be maintained in every factory/industrial establishment and shall be kept at the work-spot in such form as the pay-master finds convenient but shall include the following particulars:—

Register of wages.

(a) the gross wages earned by each person employed for each wage period;

(b) all deductions made from those wages, with an indication, in each case, of the clause of sub-section (2) of section 7 under which the deduction is made;

(c) the wages actually paid to each person employed for each wage period.

6. Notwithstanding anything contained in these rules, where a combined (alternative) form is sought to be used by the employer to avoid duplication of work for compliance with the provision of any other Act or the rules framed thereunder, an alternative suitable form in lieu of any the forms prescribed under these rules may be used with the previous approval of the Chief Inspector of Factories, Himachal Pradesh.

Combined form of Register.

7. The registers required by rules 3, 4, 5 and 18 shall be preserved for twenty-four months after the date of the last entry made in them.

Maintenance of Registers.

8. All weights, measures and weighing machines which are used for checking or ascertaining the wages of employed persons shall be made available for examination to the Inspector, who may in the event of his not being satisfied with the correctness of the apparatus or the weights, seal and prohibit their future use and report the matter immediately for necessary action to the appropriate authority, responsible for the administration of the Himachal Pradesh Weights and Measures (Enforcement) Act, 1968.

Section 26 (3) (c).  
Weights and measures.

9. The paymaster shall display, in conspicuous place at/or near the main entrance of the Factory/Industrial establishment a notice, in English and Hindi, giving for not less than two months in advance, the days on which wages are to be paid.

Section 26 (3) (d).  
Notice of dates of payment.

10. The Labour Commissioner shall be the authority competent to approve, under sub-section (1) of section 8, of the Act, acts and omissions in respect of which fines may be imposed and, under sub-section (8) of section 8, of the Act, the purposes on which the proceeds of fines shall be expended.

Section 26 (3) (e), (f) and (h).  
Prescribed authority.

11. Every employer requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Labour Commissioner,—

Application in respect of fines.

(a) a list, in English, in duplicate, clearly defining such acts and omissions;

(b) in cases where the employer himself does not intend to be the sole person empowered to impose fines, a list, in duplicate showing those

appointments in his Factory/Industrial establishment of which the incumbents may pass orders imposing fines and the class of establishment on which the incumbent of each such appointment may impose fine.

Approval of list of acts and omissions.

12. The authority appointed under rule 10 on receipt of the lists prescribed in the preceding rule may, after such enquiry as he considers necessary, pass orders either—

- (a) disapproving the lists;
- (b) approving the lists either in their original form or as amended by him, in which case such lists shall be considered to be approved lists, provided that no order disapproving or amending any lists shall be passed unless the employer shall have been given an opportunity of showing cause, orally or in writing why the lists as submitted by him should be approved.

Posting of list.

13. The employer shall display at or near the main entrance of the Factory/Industrial establishment a copy in English, together with a literal translation thereof, in Hindi of the list approved under rule 12.

Persons authorised to impose fines.

14. No fine may be imposed by any person other than an employer or a person holding an appointment named in a list submitted under rule 11.

Procedure in imposing fines and deductions.

15. Any person desiring to impose a fine on an employed person or to make a deduction for damage or loss shall explain personally to the said person the act or omission, or damage or loss, in respect of which the fine or deduction is proposed to be imposed and the amount of the fine or deduction, which it is proposed to impose, and shall hear his explanation in the presence of at least one other person.

Information to paymaster.

16. The person imposing a fine or directing the making of a deduction for damage or loss shall at once inform the paymaster of all particulars, so that the register prescribed in rule 3 or 4 may be duly completed.

Section 26 (3)(g). Deduction for breach of contract.

17. (1) No deduction for breach of contract shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No deduction for breach of contract shall be made from the wages of any employed person unless,—

- (a) there is provision in writing forming part of the terms of the contract of employment requiring him to give notice of the termination of his employment; and
  - (i) the period of this notice does not exceed fifteen days or the wage period, whichever is less; and
  - (ii) the period of this notice does not exceed the period of notice which the employer is required to give of the termination of that employment;
- (b) this rule has been displayed in English and in the language of the majority of the employed persons at or near the main entrance of the factory and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made;

- (c) a notice has been displayed at or near the main entrance of the factory giving the names of the persons from whom the deduction is proposed to be made, the number of days wages to be deducted and the conditions (if any) on which the deduction will be remitted:

Provided that where the deduction is proposed to be made from all the persons employed in any departments or sections of the factory, it shall be sufficient, in lieu of giving the names of the persons in such departments or sections, to specify the departments or sections affected.

(3) No deduction for breach of contract shall exceed the wages of the persons employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2) no deduction for breach of contract shall be made from any person who has complied with those conditions.

18. (1) An advance of wages not already earned shall not without the previous permission of Inspector, exceed an amount equivalent to the wages earned by the employed person during the preceding two calendar months, or if he has not been employed for that period, twice the wages he is likely to earn during the two subsequent calendar months.

Section  
26(3)(i)  
Advances.

(2) The advance may be recovered in instalments by deductions from wages spread over not more than twelve months. No instalment shall exceed one-third, or where the wages for any wage period are not more than twenty rupees one-fourth of the wages for the wage period in respect of which the deduction is made.

(3) The amount of all advances sanctioned and the repayments thereof shall be entered in a register in Form III.

19. Every employer of the factory shall send a return in Form IV so as to reach the Labour Commissioner, Himachal Pradesh, Simla not later than the first of February following the end of the year to which it relates endorsing simultaneously a copy thereof to the Inspector having jurisdiction under the Act.

Section  
26(3)(a)  
Annual re-  
turn.

20. (1) Where the Authority or the Courts, as the case may be, direct that any costs shall not follow the event, he shall state his reasons for so doing in writing.

Section  
26(3)(i)  
Costs.

(2) The costs which may be awarded shall include—

- (a) the charges necessarily incurred on account of court fees;
- (b) the charges necessarily incurred on subsistence money to witnesses; and
- (c) Pleader's fees which shall ordinarily be Rs. 10 provided that the Authority or the Court, as the case may be in any proceedings, may reduce the fee to a sum of not less than Rs. 5 or increase it to a sum not exceeding Rs. 30.

(3) When a party engages more pleaders than one to defend a case, he shall be allowed one set of costs, only.

21. The Authority or the Court, as the case may be, may fix fees on the payment of which any person entitled to do so may obtain copies of any documents filed with the Authority or the Court, as the case may be:

Provided that the Authority or the Court, as the case may be, may, in consideration of the poverty of the applicant, grant copies free of cost.

22. The fee payable in respect of proceedings under the Act shall be:—

- |  |   |
|--|---|
| (i) For every application to summon a witness.   | Twenty-five paise in respect of each witness.                                       |
| (ii) For every other application made by or on behalf of an individual persons before the authority. | Fifty paise.  |
| (iii) For every other application made by or on behalf of an unpaid group before the Authority.      | Twenty-five paise for each member of the group subject to a maximum of five rupees. |
| (iv) For every appeal lodged with the Court.   | Five rupees:  |

Provided that the Authority or the Court may, in consideration of the poverty of the applicant, reduce or remit this fee:

Provided that no fee shall be chargeable in respect of an application presented by an Inspector.

23. The abstracts of the Act and of the rules made thereunder to be displayed under section 25 shall be in Form V.

24. Any breach of rules 3, 4, 5, 7, 9, 13, 16 and 19 of these rules shall be punishable with fine which may extend to two hundred rupees.

25. The Himachal Pradesh Payment of Wages Rules, 1959 as in force in the areas which comprised in Himachal Pradesh immediately before the 1st November, 1966 and Punjab Payment of Wages Rules, 1937, as applicable in the territories added to Himachal Pradesh under Punjab Re-organisation Act, 1966, are hereby rescinded but all acts done and orders issued under the rules so rescinded shall so far as they are not inconsistent with these rules, be deemed to have been respectively done and issued under these rules.

“FORM I”

## REGISTER OF FINES

(See rule 3)

.....Factory/Industrial establishment.

1. Serial number.
2. Name.
3. Father's name.
4. Department.

Section  
26(3)(k)  
Fees.

Section  
26(3)(l)  
Abstract.  
Section  
26(4).  
Penalties.

Rescission.  
and savings

5. Act or omission for which fine imposed.
6. Whether workman showed cause against fine or not.  
If so enter date.
7. Rate of wages.
8. Date of amount of fine imposed.
9. Date on which fine realised.
10. Remarks.

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"FORM II"

REGISTER OF DEDUCTIONS FOR DAMAGE OR LOSS CAUSED TO  
THE EMPLOYER, BY THE NEGLIGENCE OR DEFAULT OF THE  
EMPLOYED PERSONS

(See rule 4)

1. Serial number.
2. Name.
3. Father's name.
4. Department.
5. Damage or loss caused.
6. Whether worker showed cause against deduction or not. If so enter date.
7. Date and amount of deduction imposed.
8. No. of instalments, if any.
9. Date on which total amount realized.
10. Remarks.

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"FORM III"

(See rule 18)

REGISTER OF ADVANCES MADE TO EMPLOYED PERSONS

..... Factory/Industrial establishment.

1. Serial number.
2. Name.
3. Father's name.
4. Department.
5. Date and amount of advance made.
6. Purpose for which advance made.
7. Number of instalments by which advance to be repaid.
8. Postponements granted.
9. Dates on which total amount repaid.
10. Remarks.

## "FORM IV"

(See rule 19)

RETURN FOR THE YEAR ENDING 31ST DECEMBER, 19  
(SHOWING WAGES AND DEDUCTIONS FROM WAGES)

1. (a) Name of the Factory or Industrial establishment with complete postal address.  
(b) Industry.
  2. Number of days worked during the year.....
  3. (a) Average daily number of persons employed during the year
- |  | Persons receiving less than Rs. 200 | Persons receiving Rs. 200 or more but less than Rs. 400 | Persons receiving Rs. 400 or more but less than 1000 |
|--|-------------------------------------|---|--|
|  |                                     |   |  |

Adults.  
Children.

- (b) Gross amount paid as remuneration to persons getting less than Rs. 200, including deductions under section 7(2) of which the amount due to profit sharing bonus is..... and that due to money value of concession is.....
- (c) Gross amount paid as remuneration to persons getting Rs. 200 and more but less than Rs. 400 including deductions under section 7(2) of which the amount due to profit sharing bonus is..... and that due to money value of concession is.....
- (d) Gross amount paid as remuneration to persons getting Rs. 400 or more but less than 1000 including deductions under section 7(2) of which the amount due to profit sharing bonus is..... and that due to money value of concession is Rs.....
4. Total wages paid including deductions under section 7(2) on the following accounts:—

	Persons receiving less than Rs. 200	Persons receiving Rs. 200 and more but less than Rs. 400	Persons receiving 400 or more but less than Rs. 1000
(a) Basic wages including over-time wages and non-profit sharing bonus.			
(b) Dearness and other allowances in cash.			
(c) Arrears of pay in respect of previous year paid during the year.			



5. Number of cases and amount realised as:—					
Persons receiving less than Rs. 200		Persons receiving Rs. 200 and more but less than Rs. 400		Persons receiving Rs. 400 or more but less than Rs. 1000	
No. of cases	Amount	No. of cases	Amount	No. of cases	Amount

- (a) Fines.  
(b) Deductions for damages or loss.  
(c) Deductions for breach of contract.

6. Disbursement from the Fines Fund—

*Purpose* *Amount*

- (a)  
(b)  
(c)  
(d)

7. Balance of Fines Fund in hand at the end of the year Rs. ....

*Note.*—The average daily number of persons is obtained by dividing aggregate number of attendance during the year by the number of working days.

“Money value of concession should be obtained by taking the difference of the cost price paid by the employer and the actual price paid by the employees for supplies of essential commodities given free or at concessional rates”.

*Signature* .....

*Date* .....

*Designation* .....

FORM V  
(See rule 23)

ABSTRACT OF THE PAYMENTS OF WAGES ACT 1936 AND THE  
RULES MADE THEREUNDER  
WHOM THE ACT AFFECTS

1. The Act applies to the payment of wages to persons in this factory/ industrial establishment receiving less than Rs. 1,000 a month.
2. No employed person can give up by contract, or agreement his rights under the Act.

DEFINITION OF WAGES

“Wages” means all remuneration (whether by way of salary, allowances, or otherwise) expressed in terms of money or capable of being so expressed

which would, if the terms of employment, express or implied, were fulfilled be payable to a person employed in respect of his employment or of work done in such employment, and includes—

- (a) Any remuneration payable under any award of settlement between the parties or order of a court;
- (b) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
- (c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
- (d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for time within which the payment is to be made;
- (e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force but does not include—
  - (1) any bonus (whether under a scheme of profit-sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court;
  - (2) the value of any house accommodation or of the supply of light water, medical attendance or other amenity or of any service, excluded from the computation of wages by a general or special order of the Himachal Pradesh Government;
  - (3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
  - (4) any travelling allowance or the value of any travelling concession;
  - (5) any sum paid to the employed person to defray special expenses entitled on him by the nature of his employment; or
  - (6) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (d).

#### RESPONSIBILITY FOR AND METHOD OF PAYMENT

4. The manager of the factory is responsible for the payment under the Act of wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs.

5. Wage periods shall be fixed for the payment of wages at intervals not exceeding one month.

6. Wages shall be paid on a working day within 7 days of the end of the wage period (or within 10 days if 1,000 or more persons are employed). The wages of a person discharged shall be paid not later than the second working day after his discharge.

7. Payments in kind are prohibited.

#### FINES AND DEDUCTIONS

8. No deduction shall be made from wages except those authorised under the Act (see paragraphs 9-15 below).

9. (1) Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Labour Commissioner, Himachal Pradesh specify by a notice displayed at or near the main entrance of the factory and after giving the employed person an opportunity for explanation.

(2) Fines—

- (a) shall not exceed three paise in the rupee;
- (b) shall not be recovered by instalments, or later than sixty days of the date of imposition;
- (c) shall be recorded in a register and applied to such purposes beneficial to the employed persons as are approved by the Labour Commissioner;
- (d) shall not be imposed on a child.

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working and such deductions must not exceed an amount which is in the same proportion to his wages for the wage period, as the time he was absent in that period is to the total time he should have been at work.

(b) If ten or more employed persons, acting in contract, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice but—

- (1) no deduction for breaking a contract can be made from a person under 15 or a woman;
- (2) there must be a provision in writing which forms part of the contract of employment requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given to the employer and that wages may be deducted in lieu of such notice;
- (3) the above provisions must be displayed at or near the main entrance of the factory;
- (4) no deduction of this nature can be made until a notice that this deduction is to be made has been posted at or near the main entrance of the factory;
- (5) no deduction must exceed the wages of the employed person for the period by which the notice, he gives of leaving employment is less than the notice he should give under his contract.

11. Deduction can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is due to his neglect or default. Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed person an opportunity for explanation.

12. Deductions can be made equivalent, to the value thereof, for house accommodation, amenities, or services (other than tools and raw material) supplied by the employer, provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorised by order of the Government.

13. (a) Deductions can be made for the recovery of advances, or for adjustment of overpayment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage period but no recovery can be made for advances given for travelling expenses before employment began.

(c) Advances of unearned wages can be made at the paymaster's discretion during employment but must not exceed the amount of two months' wages without the permission of an Inspector.

These advances can be recovered by instalments, spread over not more than 12 months and the instalments must not exceed 1/3rd, or if the wages are not more than Rs. 20 1/4th of the wages for any wage period.

14. Deductions can be made for subscription to and for repayment of advances from any recognised provident fund.

15. Deductions can be made for payments to Co-operative Societies approved by the Government or to the postal insurance, subject to any conditions imposed by the Himachal Pradesh Government.

### INSPECTIONS

16. An Inspector can enter on any premises, and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

### COMPLAINTS OF DEDUCTIONS OR DELAYS

17. Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within one year to the Authority appointed by the Himachal Pradesh Government for the purpose. All the Sub-Divisional Officers (Civil) have been appointed as Authorities under this Act within their respective jurisdiction. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(2) Any legal practitioner, official of a registered trade union, Inspector under the Act, or other person acting with the permission of the authority can make the complaint on behalf of an employed person.

(3) A single application may be presented by, or on behalf of any number of persons belonging to the same factory the payment of whose wages has been delayed.

### ACTION BY THE AUTHORITY

18. The authority may award compensation to the employed persons in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

## APPEAL AGAINST THE AUTHORITY

19. An appeal in the prescribed form against a direction made by the authority may be preferred within 30 days to the District Court—

- (a) by the paymaster if the total amount directed to be paid exceeds Rs. 300;
- (b) by an employed person, if the total amount of wages withheld from him or his co-workers, exceeds Rs. 50;
- (c) by a person directed to pay penalty for a malicious or vexatious application.

## PUNISHMENTS FOR BREACHES OF THE ACT

20. Any one delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine upto Rs. 500 but only if prosecuted with the sanction of the authority or the Appellate Court.

21. The Paymaster who—

- (1) does not fix a wage period; or
- (2) makes payment in kind; or
- (3) fails to display at or near the main entrance of the factory this Abstract in English and in the language of the majority of the employed persons; or
- (4) breaks certain rules made under this Act; is liable to a fine not exceeding Rs. 200.

A complaint to this effect can be made only by the Inspector, or with his sanction.

By order,  
Sd/-  
Secretary.

## REVENUE DEPARTMENT

### NOTIFICATION

*Simla-171002, the 6th April, 1977*

**No. 10-6/69-Rev-B.**—In exercise of the powers conferred on him, under section 14 of the Himachal Pradesh Restitution of Mortgaged Lands Act, 1976 (Act No. 20 of 1976) the Governor, Himachal Pradesh, proposes to make the following rules entitled as “The Himachal Pradesh Restitution of Mortgaged Lands Rules, 1976” and the same are hereby published in the Official Gazette as required under sub-section (4) of section 14 of the said Act for the information of the general public and a notice is hereby given that these draft rules will be taken into consideration after fifteen days from the date of that publication in the Official Gazette.

If any person, affected thereby, desires to make any objection or has any suggestion to make, regarding these draft rules, he can send the same to the Secretary (Revenue) to the Himachal Pradesh Government Simla-171002, before the expiry of the above period of 15 days. The objections

and suggestions, if any, so received will be taken into consideration before finalising these draft rules.

## THE HIMACHAL PRADESH RESTITUTION OF MORTGAGED LANDS RULES, 1976

Short title and commencement.

1. (1) These rules may be called the Himachal Pradesh Restitution of Mortgaged Lands Rules, 1976.

(2) They shall come into force at once.

Definitions

2. (1) In these rules, unless there is anything repugnant in the context,—
- (i) "Act" means the Himachal Pradesh Restitution of Mortgaged Lands Act, 1976 (Act No. 20 of 1976);
  - (ii) "compensation" means the amount assessed by the Collector under section 7 of the Act as payable a mortgagee prior to the restitution of any mortgaged land to the mortgagor; and
  - (iii) "Section" means section of the Act.

(2) All other words and expressions used, but not defined, in these rules, shall have the meanings respectively assigned to them in the Act.

Form, stamp duty and manner of presentation of the petition under section 4.

3. (1) The petition under section 4 shall be in Form 'A' attached to these rules, signed and verified as laid down in Order VI, rules 14 and 15, respectively, of the Code of Civil Procedure.

(2) The petition shall bear the court-fee prescribed Article I (b) of Schedule II to the Court-Fees Act, 1870 as amended in its applications to Himachal Pradesh and shall be accompanied by an attested copy of the latest jamabandi entry relating to the land, and a copy of the original mutation of the mortgage. There shall also be filed along with the petition as many copies thereof as is the number of persons mentioned in columns (2) and (3) of the petition:

Provided that if the petitioners is unable to supply copies of the latest jamabandi and the original mutation of the mortgage, he shall pay a fee of Rs. 2 and the Collector shall get those copies from his office.

(3) A petition shall be presented to the Collector by the petitioner personally or through a duly authorised agent. In the case of two or more petitioners, it may be presented by any one of them.

Procedure to be followed when there are more than one mortgagors.

4. When there are more mortgagors than one and all of them do not join in making a petition, it may be made by any one or more of them, the names of the others being set out in column (2) of the petition; and the other mortgagors may subsequently be allowed to join as petitioners on such terms as may be decided by the Officer hearing the petition.

Receipt registration of the petition and fixing the date of hearing.

5. On receipt of a petition, and after getting the necessary corrections made if any, the Collector shall order it to be entered in a register and shall, fix a date for hearing and cause notice thereof together with a copy of the petition to be served on the persons mentioned in columns (2) and (3) of the petition.

No. 1974	6. Except as otherwise provided by these rules an Officer dealing with a petition shall be guided by the procedure prescribed for revenue officers under the Himachal Pradesh Tenancy and Land Reforms Act, 1972 in so far as it may be applicable.	Procedure for dealing with the petition.
५००८	7. The persons mentioned in columns (2) and (3) of the petition shall present a written statement of their defence, which shall also be signed and verified as laid down in Order VI, rules 14 and 15, respectively, of the Code of Civil Procedure.	Written statement of defence.
०१ १९०८	8. (1) Parties to proceedings under the Act may appear in person or through a legal practitioner holding a power of attorney or other duly authorised agent.  (2) If any one of the petitioners of respondents is a minor or of unsound mind, the provisions of Order XXXII, Code of Civil Procedure, shall, so far as these may be applicable, apply to proceedings under the Act.	Appearance by parties to the proceedings.
No. 1954	9. The Collector shall then hear the evidence produced by the parties and make such further enquiries as he may deem fit.  10. In assessing the benefits received by a mortgage while in possession the Collector shall, in the absence of any satisfactory evidence to the contrary, presume that they were equal to the net assets of the land as defined in clause (12) section 4 of the Himachal Land Revenue Act, 1953. To avoid difficulty where cash rents are rare and to secure uniformity, the estimate of net assets based on rents in kind prescribed by rule 1 of the Land Revenue Assessment Rules, 1929, as in force in Himachal Pradesh shall be used.	Hearings.  Assessment of benefits received by a mortgagee while in possession under section 7.
	11. The compensation under sub-section (2) of section 7 shall be the balance left after deduction of the sum assessed under the provisions of the foregoing rules from twice the amount of the principal sum originally advanced under the mortgage:	Amount of compensation.
	Provided that the compensation shall in no case exceed the scale laid down in the said of section.	
	12. After determining the amount of compensation due under section 7 the Collector shall fix a date within which the petitioner shall deposit the amount in the Government treasury for disbursement to the mortgagee.	Time limit for depositing the amount of compensation under section 7.
	13. When the mortgagee has deposited with the Collector the mortgage deed and other documents, if any, evidencing the mortgage or title to the land, or satisfied him that the documents through which one time existing had been lost, he shall be entitled to receive the amount of compensation in accordance with the rules of the treasury, and the documents of title shall be made over to the petitioner.	Payment of the amount of compensation to the mortgagee.

Procedure to be followed in restitution of the possession to the mortgager.

14. (1) On application by a petitioner in whose favour an order has been made under section (8) of the Act, the Collector may issue a warrant directing the petitioner to be put into possession of the land.

(2) If any, co-mortgager fails to apply under rule 4 to be made a petitioner, or being a petitioner fails to pay his share of the compensation assessed, possession shall be given to the mortgager by whom such compensation has been paid in full; and such co-mortgager shall continue to be shown in the revenue records as mortgager until such time as he has paid his share, to the person who has made payment being shown as mortgagee of his share.

(3) The warrant shall after execution and with necessary endorsement be returned to the Collector.

(4) Possession shall normally be delivered between the first day of May and the fifteenth day of June, unless the land is lying vacant, but the petitioner may, subject to the payment by him of compensation for standing crops, as may be determined by the Collector, be allowed possession at any other time.

Jurisdiction as to the Collector, when any mortgage transaction effects more than one District and the manner to be adopted in dealing with such transactions.

15. (1) When any mortgage transaction affects land situated in more districts than one a petitioner, may be made to the Collector of the district where major portion of lands.

(2) In a petition covered by sub-rule (1) the Collector receiving the application shall transmit a copy of the same to the Collector of each district where any part of the rest of the land is situated.

(3) The Collector hearing the case may have the statement as contemplated under rule 10, so far as these relate to the areas situated in other districts, prepared through the Collectors thereof.

(4) Every final order passed under sections 6 to 9 of the Act by the Collector enquiring into the petition shall, so far as it relates to the land lying in the other districts, be similarly communicated to the Collectors thereof.

Procedure for dealing further petition.

16. If after the receipt by any Collector of an intimation under sub-rule (2) of rule 15 above, any fresh petition is made to him in respect of the mortgage covered by the first petition; he shall forward the same to the Collector of the district where the first petition is pending and advise the petitioner to seek his remedy there.

Issue of warrant of possession and its execution.

17. In cases covered by rule 15 the Collector issuing a warrant of possession under rule 14 shall issue a separate warrant for the area lying in each other district and transmit the same for execution to the Collector thereof, who shall execute the warrant as if it had been issued by himself.

Dismissal of a petition not to bar for fresh petition.

18. The dismissal of any petition for default shall not bar a fresh petition on similar facts, nor shall the failure of a petitioner to pay the amount of compensation have such a result.



19. If there is any dispute between persons claiming to be entitled to compensation, the Collector may either decide the dispute himself, or order the sum deposited by the petitioner not to be paid to any one till the contesting persons have had their rights decided by a competent court of law.

Procedure to be followed in case of a dispute among claimants of compensation.

20. (1) An appeal against an order by a Collector or a Commissioner under the Act shall be preferred by submitting a memorandum, accompanied by an attested copy of the order appealed against.

Filing of appeals.

(2) Each such memorandum shall bear the court fee prescribed by Article II of Schedule II of the Court-Fee Act, 1870, as amended in its applications to Himachal Pradesh.

21. Appeals shall be heard, after proper notice to the parties, on a date fixed for the purpose, and the procedure in force for the reception, hearing and disposal of appeals by Revenue Officers under the Himachal Pradesh Tenancy and Land Reforms Act, 1972, shall apply so far as it is applicable.

Procedure for hearing appeals.

22. (1) The Himachal Pradesh Restitution of Mortgaged Lands Rules, 1960, are hereby repealed.

Repairs and savings.

(2) Notwithstanding the repeal of the rules under sub-rule (1), anything done, or any action taken in the exercise of the powers conferred by or under the said rules shall be deemed to have been done or taken in exercise of the powers conferred by or under these rules, as if these rules were in force on the day on which such thing was done or action was taken.

**FORM A**  
(See rule 3)

Application under section 4 of the Restitution of Mortgaged Lands Act, 1976 (Act No. 20 of 1976)

In the district of .....

Tehsil .....

Year .....

Name, parentage, and residence of the applicant	Name, parentage, and residence of other mortgagers not joining the application	(a) Name, parentage, and residence of mortgagee, and (b) if he be not in possession of the persons in possession of the land	The area and description of the land to be restored	The date of the mortgage	The name, parentage and residence of the original mortgager and mortgagee	The amount for which the mortgage was effected	Payments if any, made towards the mortgage debt	Period for which the mortgagee has been in possession.	How does the applicant claim the right of restitution	In case the respondent was not the original mortgagee the manner in which he came to possess the mortgagee rights	Remarks
1	2	3	4	5	6	7	8	9	10	11	12

*Notes.*—(1) Attested copies of the latest jamabandi entry relating to the land and the mutation of the mortgage in question be attached to the petition.

(2) The facts in columns (5) to (12) should be given as are known to the petitioner, and any mistake therein will not affect the petition.

(3) If the petitioner is unable to secure copies of the latest jamabandi entry and the mortgage mutation or to give the facts required in column Nos. (5) to (12) he should pay a fee of Rs. 2 and the Collector shall get the necessary documents and facts from his office.

Signature of the applicant .....

## VERIFICATION

Verified that the facts set out in columns.....are true to my knowledge, while facts set out in column Nos.....are true to my belief and information.

Verified at.....on.....

*Signature of the person making the verification.....*

By order,  
H. S. DUBEY,  
*Secretary.*

